

9200/1661



Patent  
Attorney's Docket No. 006450-301

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

HB

In re Patent Application of	)	
	)	
Alain A. MEILLAND	)	Group Art Unit: 1661
	)	
Application No.: 09/238,742	)	<b>Attention: Margaret Stevens</b>
	)	<b>Head S.A.E.</b>
Filed: January 28, 1999	)	
	)	
For: FLORIBUNDA ROSE PLANT	)	
NAMED 'MEINUSIAN'	)	

**REQUEST TO RECONSTRUCT FILE**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This submission is being made following discussions with Mrs. Chapman at Group Art Unit 1661.

This Application was withdrawn from issue on December 18, 2000. No further communication has been received from the U.S. Patent and Trademark Office.

Status Inquiry papers of July 17, 2002 and January 22, 2003 have gone unanswered by the U.S. Patent and Trademark Office.

Mrs. Chapman has indicated that the file cannot be located within the U.S. Patent and Trademark Office.

The undersigned attorney of record now provides a true copy of papers prepared from his file and respectfully requests that the official file of the U.S. Patent and

Trademark Office be reconstructed, and that appropriate further action be taken with respect to the prosecution of this pending Plant Patent Application.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

Date: July 11, 2003

By: Benton S. Duffett Jr.

Benton S. Duffett, Jr.  
Registration No. 22,030

P.O. Box 1404  
Alexandria, Virginia 22313-1404  
(703) 836-6620



Patent  
Attorney's Docket No. 006450-301

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of )

ALAIN A. MEILLAND )

Application No.: 09/238,742 )

Filed: January 28, 1999 )

For: FLORIBUNDA ROSE PLANT NAMED )  
'MEINUSIAN' )

Group Art Unit: 1661

Examiner: H. Locker

Batch No.: Z98

*Hg*

**STATUS INQUIRY**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

Please advise, in writing, as to the current status of the above-captioned application. No reply was received from the U.S. Patent and Trademark Office concerning Applicant's earlier Status Inquiry of July 18, 2002.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By: *Benton S. Duffett, Jr.*

Benton S. Duffett, Jr.  
Registration No. 22,030

P.O. Box 1404  
Alexandria, Virginia 22313-1404  
(703) 836-6620

Date: January 22, 2003

DOCKETED *am*  
Filed 1/22/03 *cc.*

(05/02)



Patent  
Attorney's Docket No. 006450-301

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of )  
ALAIN A. MEILLAND ) Group Art Unit: 1661  
Application No.: 09/238,742 ) Examiner: H. Locker  
Filed: January 28, 1999 ) Batch No.: Z98  
For: FLORIBUNDA ROSE PLANT NAMED )  
'MEINUSIAN' )

*HS*

STATUS INQUIRY

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

Please advise, in writing, as to the current status of the above-captioned application.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By: *Benton S. Duffett Jr.*  
Benton S. Duffett, Jr.  
Registration No. 22,030

P.O. Box 1404  
Alexandria, Virginia 22313-1404  
(703) 836-6620

Date: July 17, 2002

DOCKETED  
filed 7/18/02 C.C.

(05/02)



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
--------------------	-------------	-----------------------	------------------

09/238,742 01/28/99 HELLAND

006450-301

EXAMINER

HM22/0502

BENTON S. DUFFETT  
BURNS DOANE SWECKER & MATHIS  
PO BOX 1404  
ALEXANDRIA VA 22313-1404

ART UNIT	PAPER NUMBER
----------	--------------

1661

DATE MAILED: 05/02/00

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

### OFFICE ACTION SUMMARY

- ☒ Responsive to communication(s) filed on January 28, 1999
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

- ☒ Claim(s) The claim is ~~is~~ pending in the application.
- ☐ Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) The claim is ~~is~~ rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

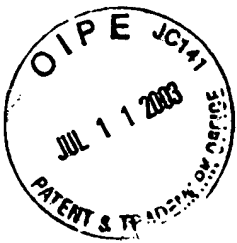
#### Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

Response Due  
8-2-00

09/238742  
PTOL-320 (Rev. 9/96)

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--



ISSUE NOTIFICATION



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	PATENT NUMBER	ISSUE DATE	ATTORNEY DOCKET NO.
09/238,742	PP11714	12/19/00	006450-301

1714 7707  
BENTON S DUFFETT  
BURNS DOANE SWECKER & MATHIS  
PO BOX 1404  
ALEXANDRIA VA 22313-1404

APPLICANT(S) ALAIN A. MEILLAND, ANTIBES FRANCE

BSD

BURNS, DOANE, SWECKER & MATHIS, L.L.P.  
RECEIVED  
DEC 05 2000 12-7  
DOCKETED JRP p/lt ma

The Conrad-Pyle Co.

## PART B—ISSUE FEE TRANSMITTAL

Compl te . his f rm, togeth r with app

ees, to:

Box ISSUE FEE

Assistant Commission r for Pat  
Washington, D.C. 20231

**MAILING INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE. Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Issue Fee Receipt, the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

HM12/0811

BENTON S DUFFETT

BURNS DOANE SWECKER &amp; MATHIS

PO BOX 1404

ALEXANDRIA VA 22313-1404

Note: The certificate of mailing below can only be used for domestic mailings of the Issue Fee Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing.

## Certificate of Mailing

I hereby certify that this Issue Fee Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above on the date indicated below.

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.

FILING DATE

TOTAL CLAIMS

EXAMINER AND GROUP ART UNIT

DATE MAILED

09/238,742

01/28/99

001

LOCKER, H

1661

08/11/00

First Named  
Applicant

MEILLAND,

35 USC 154(b) term ext. = 0 Days.

TITLE OF  
INVENTION

FLORIBUNDA ROSE PLANT NAMED MEINUSIAN

SEE ATTACHED COPY OF  
SMALL ENTITY FORM  
FILED ON JAN. 28, 1999

ATTY'S DOCKET NO.

CLASS-SUBCLASS

BATCH NO.

APPLN. TYPE

SMALL ENTITY

FEE DUE

DATE DUE

3

006450-301

PLT-150.000

Z98

PLANT

~~NO~~  
YES~~\$520.00~~  
\$290.00

11/13/00

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363). Use of PTO form(s) and Customer Number are recommended, but not required.

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47) attached.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1. Burns, Doane, Swecker  
& Mathis, L.L.P.

2. \_\_\_\_\_

3. \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)  
**PLEASE NOTE:** Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the PTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE CP (Delaware), Inc.

(B) RESIDENCE: (CITY & STATE OR COUNTRY)

Wilmington, Delaware

Please check the appropriate assignee category indicated below (will not be printed on the patent)

☐ individual ☐ corporation or other private group entity ☐ government

4a. The following fees are enclosed (make check payable to Commissioner of Patents and Trademarks):

☒ Issue Fee

☐ Advance Order - # of Copies \_\_\_\_\_

4b. The following fees or deficiency in these fees should be charged to:

DEPOSIT ACCOUNT NUMBER 02-4800  
(ENCLOSE AN EXTRA COPY OF THIS FORM)

☐ Issue Fee

☐ Advance Order - # of Copies \_\_\_\_\_

The COMMISSIONER OF PATENTS AND TRADEMARKS is requested to apply the Issue Fee to the application identified above.

(Authorized Signature)

Benton S. Duffett, Jr., Reg. No. 22,030

(Date)

8/29/00

NOTE: The Issue Fee will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the Patent and Trademark Office.

**Burden Hour Statement:** This form is estimated to take 0.2 hours to complete. Time will vary depending on the needs of the individual case. Any comments on the amount of time required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND FEES AND THIS FORM TO: Box Issue Fee, Assistant Commissioner for Patents, Washington D.C. 20231

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMIT THIS FORM WITH FEE

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of	)	<b>BOX ISSUE FEE</b>
	)	
ALAIN A. MEILLAND	)	Batch No. Z98
	)	
Application No.: 09/238,742	)	Group Art Unit: 1661
	)	
Filed: January 28, 1999	)	Examiner: H. Locker
	)	
For: FLORIBUNDA ROSE PLANT NAMED	)	Date Allowed: August 11, 2000
'MEINUSIAN'	)	

**PAYMENT OF ISSUE FEE AND AUTHORIZATION  
TO CHARGE DEPOSIT ACCOUNT FOR ANY DEFICIENCY**


Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

A check for the required Issue Fee in the above-identified application is enclosed. If the check has become separated from this paper, or if the amount of the check is incorrect, the Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.18, 1.19, and 1.21 that may be required by the attached Issue Fee Transmittal Form, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in triplicate.

Respectfully submitted,

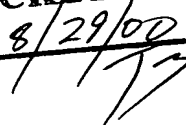
BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By: 

Benton S. Duffett, Jr.  
Registration No. 22,030

P.O. Box 1404  
Alexandria, Virginia 22313-1404  
(703) 836-6620

Date: August 29, 2000

**DOCKETED**  
**filed 8/29/00**  






UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Issue Fee  
due 11-11-00

NOTICE OF ALLOWANCE AND ISSUE FEE DUE

HM12/0811

BENTON S DUFFETT  
BURNS DOANE SWECKER & MATHIS  
PO BOX 1404  
ALEXANDRIA VA 22313-1404

006450-301

BSP

Comm-Fyle

RECEIVED  
AUG 15 2000  
DOCKETED 178-15

APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
09/238,742	01/28/99	001	LOCKER, H	1661 08/11/00
First Named Applicant	MEILLAND,	35 USC 154(b) term ext. =	0 Days.	

TITLE OF INVENTION FLORIBUNDA ROSE PLANT NAMED MEINUSIAN

SEE ATTACHED COPY OF  
SMALL ENTITY FORM FILED  
ON JANUARY 28, 1999

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
3	006450-301	PLT-150.000	Z98 PLANT	NO YES	\$500.00 \$290.00	11/13/00

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED.**

**THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.**

**HOW TO RESPOND TO THIS NOTICE:**

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is changed, pay twice the amount of the FEE DUE shown above and notify the Patent and Trademark Office of the change in status, or
- B. If the status is the same, pay the FEE DUE shown above.

If the SMALL ENTITY is shown as NO:

- A. Pay FEE DUE shown above, or
- B. File verified statement of Small Entity Status before, or with, payment of 1/2 the FEE DUE shown above.

II. Part B-Issue Fee Transmittal should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B Issue Fee Transmittal should be completed and returned. If you are charging the ISSUE FEE to your deposit account, section "4b" of Part B-Issue Fee Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give application number and batch number.

Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**

YOUR COPY

1. The following is a quotation of section (a) of 37 CFR 1.163:

(a) The specification must contain as full and complete a disclosure as possible of the plant and the characteristics thereof that distinguish the same over related known varieties, and its antecedents, and must particularly point out where and in what manner the variety of plant has been asexually reproduced. In the case of a newly found plant, the specification must particularly point out the location and character of the area where the plant was discovered.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

"The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention."

In plant applications filed under 35 U.S.C. 161, the requirements of 35 U.S.C. 112 are limited. The following is a quotation of 35 U.S.C. 162:

No plant patent shall be declared invalid for noncompliance with section 112 of this title if the description is as complete as is reasonably possible. The claim in the specification shall be in formal terms to the plant shown and described.

The disclosure is objected to under 37 CFR 1.163(a) and under 35 U.S.C. 112, first paragraph, because the specification presents less than a full, clear, and complete botanical description of the plant and the characteristics which define same per se, and which distinguish same over related or similar known cultivars and antecedents.

More specifically:

A. Characteristic and observed flowering stem length should be accounted for in the specification given the stated market class of the cultivar.

B. Genus/species designation for the instant plant should be set forth in the specification.

C. Relative lastingness of the bloom on the plant (and as a cut flower if tested) should be accounted for in a positive manner in the interest of providing as complete a botanical description of the plant as is reasonably possible, particularly given the stated market class of the plant.

D. Sepal and peduncle coloration should be accounted for with reference to the employed Color Chart.

E. Pollen parent 'Kolima' is also known as 'Lilli Marleen'. United States Plant Patent Number 1986 (copy attached) is directed to a floribunda rose plant named 'Lilli Marleen' (see also the NAPPO excerpt, and Modern Roses 9 excerpt). If such is the same plant, the specification should be amended to reflect the patent status of same.

F. As excellent disease resistance is set forth as a distinguishing characteristic of the plant, the specification should more substantively address this characteristic plant feature in the interest of providing as complete a botanical description of the plant as is reasonably possible.

G. The instant plant should be distinguished from its antecedent cultivars on the record. Such need not be in any great detail.

The above listing may not be comprehensive. Applicant should carefully review the disclosure and import into same any additional or corrected information which would aid in botanically identifying and/or distinguishing the cultivar for which United States Plant Patent protection is being sought.

2. The claim is rejected under 35 U.S.C. 112, first and second paragraphs as not being supported by a clear and complete botanical description of the plant, for the reasons set forth in paragraph 1 above.

3. Any inquiry concerning this communication from the examiner should be directed to Examiner Howard J. Locker whose telephone number is 703-308-2924, and whose normal work hours are Monday through Thursday, from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Lynette Smith, can be reached at 703-308-3909.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Serial No. 09/238742

-5-

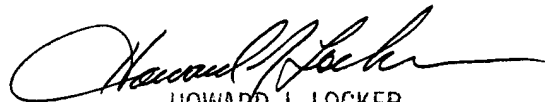
Art Unit 1661

## **TELECOPY/FACSIMILE TRANSMISSION**

Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to this Group via the PTO Fax Center in Crystal Mall 1 (CM 1). The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM 1 Fax Center number is 703-308-4556 or 703-305-3592.

Howard J. Locker/hjl

April 24, 2000

  
HOWARD J. LOCKER  
EXAMINER  
GROUP ART UNIT *1661*

FILING RECEIPT



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTORNEY DOCKET NO.	DRWGS	TOT CL	IND CL
09/238,742	01/28/99	1649	\$240.00	006450-301	1	1	1

BENTON S DUFFETT  
BURNS DOANE SWECKER & MATHIS  
PO BOX 1404  
ALEXANDRIA VA 22313-1404

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Application Processing Division's Customer Correction Branch within 10 days of receipt. Please provide a copy of the Filing Receipt with the changes noted thereon.

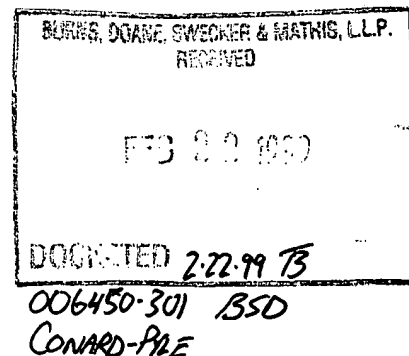
Applicant(s)

ALAIN A. MEILLAND, ANTIBES, FRANCE.

\* SMALL ENTITY \*

TITLE  
FLORIBUNDA ROSE PLANT NAMED "MEINUSIAN"

PRELIMINARY CLASS: PLT



DATA ENTRY BY: HALL, ELMIRA

TEAM: 02 DATE: 02/18/99